

TAYLOR BOOTH,	§	IN THE DISTRICT COURT OF
Plaintiff	§	
v.	§	HARRIS COUNTY, TEXAS
WRIGHT NATIONAL FLOOD	§	
INSURANCE SERVICES, LLC,	§	_____ JUDICIAL DISTRICT
Defendant		

ORIGINAL PETITION

Plaintiff, Taylor Booth, files this Original Petition:

Nature of the Case

This is a breach of contract case in which a national insurance company entered into a contract to provide flood insurance protection of \$280,000, accepted and retained the premium, and then retroactively changed the terms of the contract to provide only \$27,200 in coverage. Plaintiff seeks a declaratory judgment as to his contract rights and damages for breach of contract.

Parties

Plaintiff is an individual residing in Harris County.

Defendant is a foreign limited liability company. Defendant may be served through its registered agent CT Corporation System, 1999 Bryan St. Suite 900, Dallas, TX 75201.

Designations

Original Petition

Discovery Control Plan

Plaintiff intends to conduct discovery under Level 2 of the Texas Rules of Civil Procedure, Rule 190.3.

Claim for Relief

Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000, and non-monetary relief.

Jurisdiction

This Court has subject matter jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements.

This Court has personal jurisdiction over defendant because conducts business in this state and, specifically, entered into the contract at issue in Texas, with a Texan, concerning Texas property.

Venue

Venue is proper in this county because all or a substantial part of the events or omissions giving rise to the claim occurred in this county. TCPRC § 15.002(a)(1).

Facts

Taylor Booth is a young Houston resident. On 2016, Taylor purchased his first home, which is located at 9422 Meadowbriar Ln, Houston, Texas, 77063.

Taylor applied for and purchased a policy covering flood insurance from defendant's agent, Serna Insurance Agency, Inc., on November 9, 2016 for \$200,000 in insurance protection for his home and \$80,000 for its contents. Taylor was informed

that the policy was subject to review by defendant and a statutory waiting period of 30 days to be effective.

Taylor paid the premium. Defendant reviewed the application, issued the policy, and accepted the premium. The waiting period expired, and Taylor's policy became a valid and enforceable contract for flood insurance protection of his home.

Hurricane Harvey struck Houston on August 25, 2017. Taylor's home suffered severely flood damage, and he promptly filed a claim.

On or about September 1, defendant's agent informed Taylor that defendant had unilaterally changed the terms of coverage to \$17,600 for the building and \$9600 for contents.

Taylor was later informed that defendant had determined (allegedly) in February 2017 that the home had suffered three previous losses by flooding -- information unknown to plaintiff, but known to defendant at the time it accepted the contract.

Taylor was provided later with a letter purporting to have been mailed on February 21, 2017 cancelling and reissuing his insurance and instructing him to pay an additional premium in order to retain the insurance coverage already agreed. Taylor never received the letter. The agent also claimed never to have received it. As a result, Taylor had no knowledge or notice of the retroactive change and took no action.

It is entirely possible that the letter was entirely a fabrication and printed after the fact. If defendant had any right to cancel the policy--which plaintiff denies--it took no further action to inform its insured and simply kept the premium.

Causes of Action

Count 1 -- Declaratory Judgment

A ripe, justiciable dispute exists as to the amount of coverage and terms of plaintiff's contract with defendant. Plaintiff requests a judicial declaration that his contract of insurance provides him with \$200,000 building and \$80,000 contents coverage. Plaintiff requests supplemental relief to enforce his contractual rights and an award of costs, including reasonable and necessary attorney's fees, as is just.

Count 2 -- Breach of Contract

Based on the facts alleged, plaintiff has a valid contract with defendant. Defendant has breached the contract. Plaintiff has suffered injury proximately caused by the breach. Plaintiff requests an award of actual damages. Plaintiff further requests an award of reasonable and necessary attorney's fees. Presentment of a claim has been made pursuant to § 38.001 of the Texas CPRC.

Conditions Precedent

All conditions precedent to plaintiff's claim for relief have been performed or have occurred.

Jury Demand

Plaintiff demands a jury trial and tenders the appropriate fee.

Request for Disclosure

Plaintiff requests that defendant disclose, within 50 days of the service of this request, the information or material described in TRCP Rule 194.2.

Conclusion and Prayer

Plaintiff requests that this Court issue citation for defendant to appear and answer, and that plaintiff be awarded judgment against defendant for the following:

1. Actual damages
2. Declaratory judgment and supplemental relief to enforce plaintiff's rights.
3. Prejudgment and postjudgment interest
4. Court costs
5. Attorney's fees
6. All other relief to which plaintiff is entitled.

Respectfully Submitted,

FRYAR LAW FIRM, P.C.

/s/ Eric Fryar

Eric Fryar

Texas Bar No. 07495770

Email: eric@fryarlawfirm.com

Christina D. Richardson

Texas Bar No. 24070495

Email: crichardson@fryarlawfirm.com

912 Prairie Street, Suite 100

Houston, Texas 77002-3145

Tel. (281) 715-6396

Fax (281) 605-1888

Attorney in Charge for Plaintiff



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date. Witness my official hand and seal of office this October 20, 2017

Certified Document Number: 76651888 Total Pages: 5

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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EXHIBIT B

CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

STYLED

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.


1. Contact information for person completing case information sheet: Name: _____ Email: _____ Address: _____ Telephone: _____ City/State/Zip: _____ Fax: _____ Signature:  State Bar No: _____ [Attach additional page as necessary to list all parties]		Names of parties in case: Plaintiff(s)/Petitioner(s): _____ Defendant(s)/Respondent(s): _____		Person or entity completing sheet is: <input type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____	
2. Indicate case type, or identify the most important issue in the case (select only 1):					
Civil			Family Law		
Contract <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	Real Property <input type="checkbox"/> Eminent Domain/ Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus— Pre-indictment <input type="checkbox"/> Other: _____	Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____	
Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	Other Civil <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____				
Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	Probate & Mental Health Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____				
3. Indicate procedure or remedy, if applicable (may select more than 1):					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	
4. Indicate damages sought (do not select if it is a family law case):					
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000					

EXHIBIT B



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office
this October 20, 2017

Certified Document Number: 76651889 Total Pages: 1

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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EXHIBIT B

CIVIL PROCESS REQUEST

9/15/2017 2:22:42 PM
Christina D. District Clerk
Harris County
Envelope No: 19466863
By: HILL, MARCELLA D
Filed: 9/15/2017 2:22:42 PM

FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING
FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED

CASE NUMBER: _____ CURRENT COURT: _____

TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): _____

FILE DATE OF MOTION: _____
Month/ Day/ Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: _____

ADDRESS: _____

AGENT, (if applicable): _____

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): _____

SERVICE BY (check one):

☐ ATTORNEY PICK-UP ☐ CONSTABLE

☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____

☐ MAIL ☐ CERTIFIED MAIL

☐ PUBLICATION:

Type of Publication: ☐ COURTHOUSE DOOR, or

☐ NEWSPAPER OF YOUR CHOICE: _____

☐ OTHER, explain _____

2. NAME: _____

ADDRESS: _____

AGENT, (if applicable): _____

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): _____

SERVICE BY (check one):

☐ ATTORNEY PICK-UP ☐ CONSTABLE

☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____

☐ MAIL ☐ CERTIFIED MAIL

☐ PUBLICATION:

Type of Publication: ☐ COURTHOUSE DOOR, or

☐ NEWSPAPER OF YOUR CHOICE: _____

☐ OTHER, explain _____

ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: _____ TEXAS BAR NO./ID NO. _____

MAILING ADDRESS: _____

PHONE NUMBER: _____ FAX NUMBER: _____
area code phone number area code fax number

EMAIL ADDRESS: _____

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I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date. Witness my official hand and seal of office this October 20, 2017

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HARRIS COUNTY, TEXAS

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CHRIS DANIEL
HARRIS COUNTY DISTRICT CLERK

ENTERED _____
VERIFIED WC

Civil Process Pick-Up Form

CAUSE NUMBER: 2017-61088
 ATY ✓ CIV _____ COURT 215

REQUESTING ATTORNEY/FIRM NOTIFICATION

*ATTORNEY: Fryar, F. Eric * PH: 281-715-6396
 *CIVIL PROCESS SERVER: _____
 *PH: _____
 *PERSON NOTIFIED SVC READY: Rec
 * NOTIFIED BY: KC
 *DATE: 9-25-17

Type of Service Document: <u>cit</u>	Tracking Number <u>73415308</u>
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____
Type of Service Document: _____	Tracking Number _____

Process papers prepared by: Carla Garrillo

Date: 9 - 20 2017 30 days waiting _____ - _____ 2017

*Process papers released to:	<u>JARED CLOTTA</u> (PRINT NAME)
*(CONTACT NUMBER)	<u>[Signature]</u> (SIGNATURE)
*Process papers released by:	<u>[Signature]</u> (PRINT NAME)
	<u>[Signature]</u> (SIGNATURE)
* Date:	<u>2017-09-26</u> , 2017 Time: <u>10:46</u> <u>AM</u> / PM

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office
this October 20, 2017

Certified Document Number: 76787539 Total Pages: 1

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HARRIS COUNTY, TEXAS

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